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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,488	11/10/2003	Arndt Birkert		5128

7590 09/29/2005
Dr. Max Fogiel
44 Maple Court
Highland Park, NJ 08904

EXAMINER

JONES, DAVID B

ART UNIT PAPER NUMBER

3725

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/705,488

Applicant(s)

Birkert et al.

Examiner

David B. Jones

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— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-20 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 10-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other.

DETAILED ACTION

1. Claims 10-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims as a whole still contain many limitations that are awkward and unclear, rendering the claims indefinite in nature. In each of claims 10 and 11, second line, it appears that - - a - - should be inserted before "structural" and "continuously" to make the claim definite and clear. On lines 3 / 4 of claims 10 and 11, it is unclear how "a stopper" can be forced against the "ends"; it would appear that "stoppers" would have to be forced against each end. Further on line 4 of each of claims 10 and 11, it is unclear how the wall is "added" to the cross-section; the specification fails to show "adding" a wall. On line 6 of each of claims 10 and 11, it would appear that - - said - - should be inserted before "stopper" to make the claim clear and definite. In claim 12, it is unclear what "slots projecting substantially out of an inner surface" means? How do slots project? In claims 14 and 20, "intersections", "wall branches", and "intermediate walls" all lack antecedent basis. In each of claims 15 and 16, it would appear that - - a - - should be inserted before "structural" on line 1, and before "continuously" on line 2. In claim 17, "merging with said wall" is unclear and indefinite; it is not clear how the grooves merge with the wall.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Weykamp et al. Weykamp teaches the claimed invention including reshaping with high-pressure the interior of a cross-section 6 (see Figs. 3a and 3b) having a supplemental wall (not numbered but seen in Figs. 3a or 3b) and sealing the ends of the cross-section only at the bounded cross-section thereof (see Fig. 2. at numeral 8).

3. Claims 11 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Wells et al. Wells teaches the claimed invention including reshaping with high-pressure the interior of a cross-section 50 (see Fig. 3) having a supplemental chamber 52 (see Fig. 3 and the top of Fig. 1) and sealing the ends with stoppers at 40 only at the bounded cross-section 50 of the workpiece (see Fig. 1).

4. Claims 12-14 and 17-20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

5. Applicant's arguments with respect to claims 10-20 have been considered but are moot in view of the new ground(s) of rejection.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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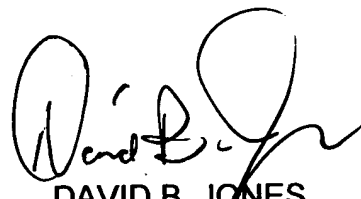
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to David B. Jones whose telephone number is (571) 272-4518.

Any inquiry of general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-3700.

In the event that the Applicant (s) wishes to communicate via Fax number for Group 3700 is (703) 872-9306.

wahp

A handwritten signature in black ink, appearing to read 'David B. Jones', is positioned above the printed name and title.

DAVID B. JONES
PRIMARY PATENT EXAMINER
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